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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,620	01/28/2004	Kentaro Yano	00862.023430	7283
5514 7590 10/30/2007 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER EBRAHIMI DEHKORDY, SAEID	
			ART UNIT 2625	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/763,620

Applicant(s)

YANO ET AL.

Examiner

Saeid Ebrahimi-dehKordy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date See Continuation Sheet.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :7/12/07, 5/10/07, 12/28/06 10/18/06, 7/26/05, 6/1/04 1/28/04.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Tamura et al (U.S. patent 6,806,978)

Regarding claim 1, 7, 12, 14 and 19 Tamura et al disclose: A recording apparatus which is directly connected to an image supply device via a communication interface (note Fig.1, items 10 and 50, the camera or image supply device and the printer 50, the recording device) and records image data transmitted from the image supply device (note abstract, also note column 2, lines 5-11) comprising: reception means for receiving a recording request from the image supply device (note column 6, lines 28-50) acquisition means for acquiring an amount of image data to be supplied from the image supply device upon reception of the recording request by said reception

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means (note column 6, lines 51-67, and also column 7, line 1-15) determination means for determining whether to be able to receive at once the amount of image data acquired by said acquisition means and process the image data (note column 6, lines 51-59, also note Figs.16 and 17, column 37, line 40 to column 38, line 18) and control means for controlling to receive segmented image data from the image supply device a plurality of number of times in a case where said determination means determines that the image data cannot be processed at once (note again Fig.17, column 37, line 61 to column 38, line 19 and also column 7, line 1-15).

Regarding claim 2 Tamura et al disclose: The apparatus according to claim 1, wherein said determination means determines on the basis of a comparison between a free space of a memory which stores data of the recording apparatus and the amount of image data (note column 6, lines 51-59).

Regarding claim 3 Tamura et al disclose: The apparatus according to claim 1, wherein in a case where said determination means determines that the image data cannot be processed at once, said control means designates an address of the image data stored in the image supply device and an amount of image data to be sent, and requests the image data stored in the image supply device (note column 6, line 28 through column 7, line15).

Regarding claim 4, 10 and 13 Tamura et al disclose: A recording apparatus which is directly connected to an image supply device via a communication interface, and records image data transmitted from the image supply device (note Fig.1, items 10 and 50, the camera or image supply device and the printer 50,the recording device) comprising: reception means for receiving a recording request from the image supply device (note column 6, lines 28-50) acquisition means for acquiring image file information to be supplied from the image supply device upon reception

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of the recording request by said reception means (note column 6, lines 51-67, and also column 7, line 1-15) determination means for determining whether a thumbnail image is contained in the image file information acquired by said acquisition means (note column 33, lines 16-30) and control means for controlling to receive the thumbnail image from the image supply device in a case where said determination means determines that the thumbnail image is contained and index recording is designated (note column 33, lines 16-60).

Regarding claim 5 Tamura et al disclose: The apparatus according to claim 4, wherein the communication interface includes a USB (note Fig.9, column 20, lines 53-58).

Regarding claim 6 Tamura et al disclose: The apparatus according to claim 4, wherein the image supply device includes a digital camera (note column 2, lines 18-35).

Regarding claim 8 Tamura et al disclose: The system according to claim 7, wherein said determination means determines on the basis of a comparison between a free space of a memory which stores data of the recording apparatus and the amount of image data (note column 6, line 28 through column 7, line 15).

Regarding claim 9 Tamura et al disclose: The system according to claim 7, wherein when said determination means determines that the image data cannot be processed at once, said control means designates, from the recording apparatus, an address of the image data stored in the image supply device and an amount of image data to be sent, and requests image data stored in the image supply device (note Figs. 16&17, column 37, line 40 through column 38, line 19).

Regarding claim 11 Tamura et al disclose: The system according to claim 10, wherein the communication interface includes a USB (note Fig.9, column 20, lines 53-58).

Regarding claim 15 Tamura et al disclose: The apparatus according to claim 14, wherein the

communication interface includes a USB, the image supply device includes a USB slave, and the communication apparatus includes a USB host (note Fig.9, column 20, lines 53-58, also note Fig.8, column 29, line 48 through column 30, line 14).

Regarding claim 16 Tamura et al disclose: The apparatus according to claim 14, wherein, based on a data size of the transmission target data contained in the information, said decision means decides whether to segment the transmission target data and receive the segmented transmission target data a plurality of number of times or to receive the transmission target data at once.

Regarding claim 17 Tamura et al disclose: The apparatus according to claim 14, wherein, based on an attribute of the transmission target data contained in the information, said decision means decides whether to segment the transmission target data and receive the segmented transmission target data a plurality of number of times or to receive the transmission target data at once (note column 6, line 28 through column 7, line 15).

Regarding claim 18 Tamura et al disclose: The apparatus according to claim 14, wherein said segmentation process means presents progress of acquiring the segmented transmission target data, on the basis of a total acquisition count of the segmented transmission target data and an acquisition count of actually acquired segmented transmission target data (note Figs.16&17, column 37, line 39 through column 38, line 19).

Regarding claim 20 Tamura et al disclose: The method according to claim 19, wherein the communication interface includes a USB, the image supply device includes a USB slave, and the communication apparatus includes a USB host (note Fig.9, column 20, lines 53-58).

Regarding claim 21 Tamura et al disclose: The method according to claim 19, wherein in said decision step, it is decided whether to segment the transmission target data and receive the

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segmented transmission target data a plurality of number of times or to receive the transmission target data at once, on the basis of a data size of the transmission target data contained in the information (note column 6, line 28 through column 7, line 15).

Regarding claim 22 Tamura et al disclose: The method according to claim 19, wherein in said decision step, it is decided whether to segment the transmission target data and receive the segmented transmission target data a plurality of number of times or to receive the transmission target data at once on the basis of an attribute of the transmission target data contained in the information (note Fig.17, column 37, line 61 through column 38, line 18).

Regarding claim 23 Tamura et al disclose: The method according to claim 19, wherein in said segmentation process step, progress of acquiring the segmented data is presented on the basis of a total acquisition count of the segmented data and an acquisition count of actually acquired segmented data (note Fig.17, column 37, line 61 through column 38, line 18, also note Fig.17, column 37, line 61 through column 38, line 18).

Regarding claim 24 Tamura et al disclose: A program which executes a communication control method defined in claim 19 (note rejection for claim 19).

Regarding claim 25 Tamura et al disclose: A computer-readable storage medium which stores a program for executing a communication control method defined in claim 19 (note rejection for claim 19).

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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Claim 24 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 24 defines a **program** embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., “When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized” – Guidelines Annex IV). That is, the scope of the presently claimed a **program** can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the claim to embody the program on “computer-readable medium” or equivalent in order to make the claim statutory. Any amendment to the claim should be commensurate with its corresponding disclosure.

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeid Ebrahimi-dehKordy whose telephone number is 571-272-7462. The examiner can normally be reached on Mon-Fri, 8:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, David Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Saeid Ebrahimi
Patent Examiner
Group Art Unit 2625
October 25, 2007

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